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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,031	10/04/2001	Eugeni Namsaraev	STAN-202	2881

24353 7590 10/07/2005

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EXAMINER

MARTINELL, JAMES

ART UNIT PAPER NUMBER

1634

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/972,031

Applicant(s)

NAMSARAEV ET AL.

Examiner

James Martinell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,8,10-28 and 30-45 is/are pending in the application.
- 4a) Of the above claim(s) 34-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,8,10-28,30-33 and 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Claims 34-44 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 14, 2003.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 10-14, 25, 26, 28, 30, and 45 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kim et al (Antisense Research and Development 5: 49 (1995)). Kim et al teaches the stabilization of RNA-DNA duplexes by including CC-1065, U-71,184, or distamycin A as association enhancers in the nucleic acid molecular hybridization reaction (*e.g.*, see the Abstract and the Discussion sections). Thus, the claims embrace the methods of Kim et al.

Claims 1-5, 10-14, 25, 26, 28, 30, and 45 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kolesar et al (U.S. Patent No. 6,013,442). Kolesar et al teaches the stabilization of RNA-DNA duplexes in a hybridization reaction by the inclusion of CTAB in the nucleic acid molecular

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hybridization reaction (*e.g.*, see Example 1 at column 7, lines 6-50). Thus, the claims embrace the methods of Kim et al.

Claims 2-5, 8, 15-24, 27, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al (Antisense Research and Development 5: 49 (1995)) in view of Cronin et al (U.S. Patent No. 6,027,880). Kim et al teaches the stabilization of RNA-DNA duplexes by including CC-1065, U-71,184, or distamycin A as association enhancers in the nucleic acid molecular hybridization reaction (*e.g.*, see the Abstract and the Discussion sections). Cronin et al teaches the hybridization of multiple nucleic acids on arrays to detect single nucleotide differences (*e.g.*, see columns 38-42). It would have been obvious for one of ordinary skill in the art at the time the invention was made to assay nucleic acids in the manner taught by Cronin et al by stabilizing RNA-DNA duplexes in the manner taught by Kim et al.

Claims 8 15-24, 27, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolesar et al (Ius 6,013,442) in view of Cronin et al (U.S. Patent No. 6,027,880). Kolesar et al teaches the stabilization of RNA-DNA duplexes in a hybridization reaction by the inclusion of CTAB in the nucleic acid molecular hybridization reaction (*e.g.*, see Example 1 at column 7, lines 6-50). Cronin et al teaches the hybridization of multiple nucleic acids on arrays to detect single nucleotide differences (*e.g.*, see columns 38-42). It would have been obvious for one of ordinary skill in the art at the time the invention was made to assay nucleic acids in the manner taught by Cronin et al by stabilizing RNA-DNA duplexes in the manner taught by Kolesar et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Martinell whose telephone number is (571) 272-0719.

The examiner works a flexible schedule and can be reached by phone and voice mail. Alternatively, a request for a return telephone call may be e-mailed to james.martinell@uspto.gov. Since e-mail communications may not be secure, it is suggested that information in such requests be limited to name, phone number, and the best time to return the call.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones, can be reached on (571) 272-0745.

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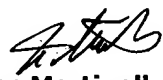
OFFICIAL FAX NUMBER

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Any Official Communication to the USPTO should be faxed to this number.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.


James Martinell, Ph.D.
Primary Examiner
Art Unit 1634 9/30/05